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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 Edward James Wilkins,

11 Petitioner,

12 v.

13 Jeffrey A Uttecht,

14 Respondent.

CASE NO. 3:19-cv-06122-RBL-JRC

ORDER

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16 Petitioner, who is proceeding *pro se* and *in forma pauperis*, filed a Petition for Writ of  
17 Habeas Corpus pursuant to 28 U.S.C. § 2254. Dkt. 5. Before the Court are three motions filed by  
18 petitioner: (1) motion to amend case caption (Dkt. 8); (2) motion to amend petition (Dkt. 9); and  
19 (3) motion to compel for information (Dkt. 10). The Court denies petitioner's motion to amend  
20 case caption (Dkt. 8) and motion to compel for information (Dkt. 10). The Court grants  
21 petitioner's motion to amend petition (Dkt. 9) and directs petitioner to file an amended petition  
22 on or before January 30, 2020.  
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1       **A. Motion to Amend Case Caption (Dkt. 8)**

2       Petitioner now moves for the Court to amend the case caption to the State of Washington  
3 as respondent. Dkt. 8.

4       In his Petition, Petitioner named the Jeffrey Uttecht as Respondent. Dkt. 5. The proper  
5 respondent to a habeas petition is the “person who has custody over [the petitioner].” 28 U.S.C. §  
6 2242; see also § 2243; *Brittingham v. United States*, 982 F.2d 378 (9th Cir. 1992); *Dunne v.*  
7 *Henman*, 875 F.2d 244, 249 (9th Cir. 1989). According to his Petition, Petitioner is currently  
8 confined at Coyote Ridge Corrections Center (“CRCC”) in Connell, Washington. *See* Dkt. 5.  
9 The Superintendent of CRCC is Jeffrey A. Uttecht.

10       Accordingly, Jeffrey A. Uttecht is the proper respondent in this action. Petitioner’s  
11 motion to amend the case caption (Dkt. 8) is denied.

12       **B. Motion to Amend Petition (Dkt. 9)**

13       Plaintiff moves for leave to amend his petition to add claims and factual allegations. Dkt.  
14 9. Pursuant to Rule 15(a) of the Federal Rules of Civil Procedure,

15       (1) ***Amending as a Matter of Course***

16       A party may amend its pleading once as a matter of course within: (A) 21 days after  
17 serving it, or

18       (B) if the pleading is one to which a responsive pleading is required, 21 days after  
19 service of a responsive pleading or 21 days after service of a motion under Rule  
20 12(b), (e), or (f), whichever is earlier.

19       (2) ***Other Amendments***

20       In all other cases, a party may amend its pleading only with the opposing party’s  
21 written consent or the court’s leave. The court should freely give leave when justice  
22 so requires.

21       The motion to amend is petitioner’s first motion and he has not previously amended his  
22 petition in this case. Petitioner filed the motion to amend before respondent filed an answer or  
23 responsive pleading. *See* Dkt. Therefore, petitioner has the right to amend his petition as a matter  
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1 of course pursuant to Rule 15(a)(1)(B). Accordingly, petitioner's motion to amend (Dkt. 9) is  
2 granted.

3 Petitioner has not attached a proposed amended petition to his motion to amend. Dkt. 9.  
4 To amend his petition, petitioner must file an amended petition on the form provided by the  
5 Court. If petitioner fails to file an amended petition by January 30, 2020 the Court will proceed  
6 on the original petition.

7 The Clerk is directed to send petitioner the appropriate forms for filing a 28 U.S.C. §  
8 2554 habeas corpus petition.

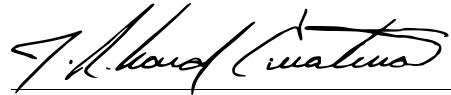
9 **C. Motion to Compel for Information (Dkt. 10)**

10 Petitioner moves for the Court to order respondent to present the bill of indictment by a  
11 grand jury. Dkt. 10. Petitioner argues that if respondent cannot provide the legal cause for  
12 petitioner's restraint, petitioner asks for immediate release from confinement. Dkt. 10. Petitioner  
13 argues that his current incarceration is illegal. *Id.*

14 The Court interprets petitioner's motion to compel information (Dkt. 10) as a request for  
15 the Court to rule on the petition. However, as discussed above, the Court grants petitioner leave  
16 to file an amended petition on or before January 26, 2020. Therefore, the petition is not ripe for  
17 the Court's review at this time. Upon filing of the amended petition, the Court will screen the  
18 amended petition and file an amended briefing schedule as necessary.

1           Therefore, the Court denies the motion to compel information (Dkt. 10) as moot without  
2 prejudice.

3           Dated this 30th day of December, 2019.

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7 J. Richard Creatura  
8 United States Magistrate Judge  
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